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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,232	03/16/2004	Sarah F. Frisken	MERL-1556	3551

7590 05/24/2005

Patent Department
Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

EXAMINER

BRAUTIGAM, ALYSA N

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,232

Applicant(s)

FRISKEN ET AL.

Examiner

Alysa N. Brautigam

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/28/04, 6/28/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:

- Figure 7, Item 404 – Appears to be an extraneous item number

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- Figure 7, Item 750 – Reference to the item is missing, see paragraphs 0200-0202
- Figure 8, Item 800
- Figure 13 – Reference to the figure is missing, see paragraph 0112

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. This application as a whole is directed to a useful, concrete, and tangible result, however, the abstract and paragraphs 040, 0289-0299 describe abstract non-tangible

Art Unit: 2676

results. Claims 1-7 are directed to manipulating abstract ideas. State Street Bank & Trust Co. v. Signature Financial Group Inc. (CA FC) 47 USPQZd 1596, 1603 (7/23/1998). AT&T Corp. v. Excel Communications Inc. (CA FC) 50 USPQZd 1447.

On page 1603 first paragraph the CAFC wrote in State Street:

Under Benson, this may have been a sufficient indicium of nonstatutory subject matter. However, after Diehr and Alappat, the mere fact that a claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, in and of itself, would not render it nonstatutory subject matter, unless, of course, its operation does not produce a "useful, concrete and tangible result." Alappat, 33 F.3d at 1544, 31 USPQZd at 1557. 7

On page 1603 paragraph labeled I4J the CAFC wrote:

[4] The question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to 9 -- process, machine, manufacture, or composition of matter—but rather on the essential characteristics of the subject matter, in particular, its practical utility. Section 101 specifies that statutory subject matter must also satisfy the other "conditions and requirements" of Title 35, including novelty, nonobviousness, and adequacy of disclosure and notice. See In re Warmerdam, 33 F.3d 1354, 1359, 31 USPQZd 1754, 1757-58 (Fed. Cir. 1994).

6. Claims 1-7:

These claims claim manipulating an abstract idea without any concrete, useful, and tangible result.

Prior Art

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang, Jian et al., A Complete Distance Field Representation,

October 24 - 26, 2001, IEEE Visualization Conference, San Diego, 9 pages found at <http://-cs.utk.edu/~huanni/papers/cdfr.pdf>. Sections 3.5 and 5.4 discuss forming iso-contours from the distance field. The article does state the conventional way to form the iso-contour involves having the user input an error tolerance. Obviously as the user inputs a different iso-contour or error tolerance the boundary descriptors used to display the iso-contour will be updated. Obviously when the boundary descriptors are calculated, an iterative process would update the boundary descriptors until the error tolerance has been reached.

8. A prior art rejection cannot be made because the metes and bounds of the claims are not definite and because the claims and corresponding specification do not claim or describes a statutory invention. Thus, an indication of allowability would be premature.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alysa N. Brautigam whose telephone number is 571-272-7780. The examiner can normally be reached on 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MATTHEW C. BELLA
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anb